

Appl. No. : 09/673,987
Filed : January 8, 2001

REMARKS

Rejection under 35 U.S.C. § 102(a), (b), and (e)

Claims 1-2 are rejected under 35 U.S.C. § 102 (a), (b) and (e) as anticipated by Comparative Example 1b of Barranx, et al. (U.S. 5,763,468).

The Examiner states again that Comparative Example 1b of Barranx, et al. teaches a composition comprising 20% pine oil and 20% tall oil sodium fatty acid soap. The pine oils of Barranx, et al. have a terpenic alcohol content of 88-93% (col. 5, lines 26-31). The Examiner maintains that the composition of Comparative Example 1b appears to inherently possess the characteristics described in functional language in claim 1, i.e., the ability to foam.

Applicant responds that Barranx, et al. is concerned with disinfectant or antiseptic compositions and that Comparative Example 1b is included as a control to demonstrate the necessity of including at least one bactericidal acidic surfactant in order to arrive at a disinfectant or antiseptic composition. Thus, Barranx, et al. do not teach an agricultural composition. Applicant further submits that Barranx, et al. actually teach away from the presently claimed invention. Nowhere in Barranx, et al. does it teach or suggest that the ingredients in the present composition may be useful in addressing the objectives of the present invention when formulated as an agricultural composition.

Applicant respectfully requests withdrawal of the rejection.

Rejection under 35 U.S.C. § 103(a)

Claims 1, 2, 4, 6-9, 11-12, 14-17, 19, 21-25, 28-29, and 47-51 are again rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Barranx, et al. and Richter.

The Examiner states that Barranx, et al. has been discussed above and that Richter is cited for his teaching on pine oil cleaning compositions which may also contain anionic surface active agents including fatty acid (C₈₋₂₀) salts (col. 9, lines 24-28). The Examiner states that it would have been obvious to one of ordinary skill in the art to combine a monoterpene alcohol with a fatty acid soap because the prior art teaches that these components were known to be useful in combination as disinfectant compositions. The addition of other optional components (surfactants, emulsifiers, etc.) would have been obvious to the ordinary artisan.

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Applicant responds that Richter is drawn to pine oil hard surface cleaning compositions. Thus, Applicant submits that there is nothing in either of Barranx et al. or Richter to teach or suggest an agricultural composition.

The citations Barranx, et al. and Richter, et al. concern fields of endeavor removed from that contemplated by the present application. Applicant submits that one of ordinary skill in the art would not combine the documents as suggested by the Examiner, but if they did, their combination would not teach or suggest the advantages obtained by the agricultural composition of the present application.

Applicant requests that the obviousness rejection be withdrawn.

Claims 1, 2, 4, 6-9, 11-12, 14-17, 19-25, 28-30, 32-33, 38-40, 42-43, and 47-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Pullen et al. and Evans, et al.

The Examiner states that Pullen et al. teach the utility of terpene oils such as pine oil and various citrus oils in combination with surfactants, preferably the salts of fatty acids, as aquatic herbicidal agents. The Examiner further states that Evans et al are cited for their teaching that fatty acid salts were known herbicidal agents and that one of ordinary skill in the art would be motivated to combine these references because they disclose the utility of fatty acid salts in herbicidal compositions.

Applicant argues that Pullen, et al. teach the use of an aquatic herbicidal composition which acts by reducing the surface tension of the water causing the target aquatic vegetation to sink (col. 2, lines 37-38). A second mode of action taught by Pullen, et al. is the removal of the wax cuticle on the surface of the aquatic vegetation. This second mode of action also assists in causing the target aquatic vegetation to sink (col. 3, lines 7-8). Applicant asserts that both of these methods of actions are specific to aquatic vegetation and do not teach or suggest that compositions according to the present invention may be useful in agriculture.

Turning to Evans, et al. this patent relates to the use of fatty acid salts in herbicidal compositions. However, Evans, et al. do not teach or suggest the combination of fatty acid salts with monoterpene alcohols and the advantages which may be obtained by using such a composition in agriculture. Applicant asserts that one of ordinary skill in the art would not combine the teachings of Pullen, et al. and Evans, et al. because Evans, et al. teach the use of fatty acid salts as herbicidal compositions whereas Pullen, et al. teach the use of terpene oils to

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submerge aquatic foliage. Given the two completely different methods of action of the compositions of the prior art documents, Applicant submits that one of ordinary skill in the art would not think to combine the two teachings. Furthermore, Applicant submits that even if the two teachings are combined, they do not teach or suggest Applicant's claimed invention.

In view of Applicant's arguments, reconsideration and withdrawal of the above ground of rejections is respectfully requested.

CONCLUSION

In view of the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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